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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 160/2002

of 28 January 2002

amending Council Regulation (EC) No 2398/97 imposing a definitive anti-dumping duty on imports of cotton-type bed linen originating in Egypt, India and Pakistan, and terminating the proceeding with regard to imports originating in Pakistan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to Council Regulation (EC) No 1515/2001 of 23 July 2001 on the measures that may be taken by the Community following a report adopted by the WTO Dispute Settlement Body concerning anti-dumping and anti-subsidy matters ([1]),

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ([2]) ('the basic Regulation'),

Having regard to the proposal made by the Commission after consultation of the Advisory Committee,

Whereas:

A. EXISTING MEASURES

(1) The Council, by Regulation (EC) No 2398/97 ([3]), imposed a definitive anti-dumping duty on imports of cotton-type bed linen originating in Egypt, India and Pakistan ('the definitive Regulation'). The definitive Regulation was preceded by Commission Regulation (EC) No 1069/97 of 12 June 1997 imposing a provisional anti-dumping duty on imports of cotton-type bed linen originating in Egypt, India and Pakistan ([4]) ('the provisional Regulation').

B. REPORTS ADOPTED BY THE DISPUTE SETTLEMENT BODY OF THE WTO

(2) On 12 March 2001, the Dispute Settlement Body of the World Trade Organisation ('WTO') adopted an Appellate Body report and a panel report as modified by the Appellate Body report on the case 'European Communities — anti-dumping duties on imports of cotton-type bed linen from India' (the reports).

C. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

(3) The product under consideration is certain bed linen of cotton fibres, pure or mixed with man-made fibres or flax (flax not being the dominant fibre), bleached, dyed or printed originating in India, Pakistan and Egypt, falling within CN codes ex 6302 21 00 (TARIC codes 6302 21 00*81, 6302 21 00*89), ex 6302 22 90 (TARIC code 6302 22 90*19), ex 6302 31 10 (TARIC code 6302 31 10*90, ex 6302 31 90 (TARIC code 6302 31 90*90, ex 6302 32 90 (TARIC code 6302 32 90*19). The Reports do not affect the findings set out in the definitive Regulation concerning the product under consideration and the like product.

D. RECONSIDERATION OF FINDINGS

1. Preliminary remark

(4) Following the adoption of the aforementioned reports, the Council, by Regulation (EC) No 1644/2001, considered it appropriate to amend and suspend the definitive anti-dumping duty on imports of bed linen originating in India.

(5) It is now considered appropriate to take into account certain legal interpretations contained in the reports with regard to the measures concerning imports of bed linen originating in Egypt and Pakistan, and to determine whether these existing measures remain appropriate, in accordance with Article 2 of Council Regulation (EC) No 1515/2001.

([1]) OJ L 201, 26.7.2001, p. 10.
([2]) OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).
([3]) OJ L 332, 4.12.1997 p. 1. Regulation as last amended by Council Regulation (EC) No 1644/2001 (OJ L 219, 14.8.2001, p. 1).
([4]) OJ L 156, 13.6.1997, p. 11.

2. **Dumping**

2.1. Introduction

(6) First, it was considered appropriate to reconsider the existing findings taking into account the legal interpretation made in the reports concerning the practice of 'zeroing' negative values when establishing the weighted average margin of dumping for Egypt and Pakistan and the determination of the amount of profit for the purpose of constructing normal values for certain Egyptian and Pakistani exporting producers. All other calculation methods applied are those used in the original investigation. For further details, reference is made to the abovementioned provisional Regulation and definitive Regulation.

(7) It is recalled that, in the original investigation, the investigation of dumping covered the period from 1 July 1995 to 30 June 1996 ('IP').

2.2. Sampling

(8) It is recalled that, in view of the large number of exporters in the countries concerned, it was decided during the original investigation to apply sampling in accordance with Article 17 of the basic Regulation.

2.3. Pakistan

(9) Since only one out of the five companies in the main sample for Pakistan had representative global domestic sales and the profitable domestic types represented less than 80 % but more than 10 % of total domestic sales, the amounts for selling, general and administrative (SG & A) expenses and profits used to construct normal value were those actually made in the ordinary course of trade by this company, in accordance with the first sentence of Article 2(6) of the basic Regulation.

(10) For the other four companies, in order to take into account the legal interpretations made in the reports and in accordance with Article 2(6)(a) of the basic Regulation, the amounts for SG & A and profits used to construct normal value were the weighted average of the actual amounts incurred and realised by the company with representative global domestic sales mentioned above and a company in the reserve sample which had also representative global domestic sales. It should be noted that sales not made in the ordinary course of trade have not been eliminated when determining the profit margin attributable to the other four companies.

(11) No changes have been necessary as far as the original findings regarding the export price and adjustments pursuant to Article 2(10) of the basic Regulation are concerned.

(12) The constructed normal value by type was compared with the export price by type. Taking account of the legal interpretations made in the reports, no 'zeroing' was applied in the revised calculation of the overall dumping margin for each sampled company.

(13) The revised calculation shows that no dumping exists for exports of the product concerned made by any sampled companies in Pakistan during the IP. Consequently, the proceeding should be terminated for imports of the product concerned originating in Pakistan. It should be noted that there would also be no dumping if sales not made in the ordinary course of trade had been excluded in the determination of constructed normal value on the basis of the method set out in Article 2(6)(a) of the basic Regulation.

2.4. Egypt

(14) With regard to Egypt, no changes have been necessary as far as the original findings regarding the export price and adjustments pursuant to Article 2(10) of the basic Regulation are concerned. The normal value, which was based on constructed values for three sampled companies without representative domestic sales in the ordinary course of trade, was reconsidered in the light of the interpretations made in the reports concerning the profit margin used in determining such constructed normal values. This is because the amount of profit used in the original investigation was based on the data of one company. However, there are no data available from the original investigation which would allow the determination of the amount for profit on the basis of any methodology provided for under Article 2(6) of the basic Regulation. In these circumstances, a detailed reconsideration of the dumping margin for Egypt is not possible.

(15) Notwithstanding the above, the fact that the rather low level of profit used in determining the constructed normal values in the original investigation resulted in relatively high dumping margins reveals that dumping is still likely to exist for Egypt during the IP. However, the level of any dumping margins would be substantially reduced if no 'zeroing' was applied when calculating the dumping margin for each sampled company.

E. **TERMINATION AND SUSPENSION OF DUTIES**

(16) With respect to imports originating in Pakistan, the proceeding should be terminated in view of the finding in recital 13.

(17) Although a detailed reconsideration of the situation of dumping of imports originating in Egypt during the IP was not possible, it is very likely that dumping still exists, although at substantially reduced levels. A definitive finding on the situation of dumping of imports originating in Egypt would have necessitated more detailed consideration being given to the application of the various methods of calculating SG & A and profits as provided for under Article 2(6) of the basic Regulation. This would have required additional information which, at the time of the original investigation, was not collected since it was not considered relevant.

(18) Anti-dumping measures were originally imposed on India, Egypt and Pakistan. It has been found that no dumping exists for imports from Pakistan and it is considered that the level of dumping by imports originating in both India and Egypt has decreased. In addition, the anti-dumping duty on imports originating in India was suspended on 14 August 2001 by Regulation (EC) No 1644/2001. The measures are set to expire with regard to India on 14 February 2002, unless a review has been initiated before that date.

(19) During the IP, Egypt had the smallest share of imports of bed linen originating in the three countries concerned. Indeed, imports originating in Egypt only represented about 14 % of total imports from the three countries and about one third of total bed linen imports from India.

(20) It is not clear whether a review will ultimately be initiated with regard to imports of bed linen originating in India. Thus, the future status of measures on dumped imports of bed linen from India is uncertain. If no such review is initiated it may be necessary to examine whether the imports from Egypt, when taken in isolation, had caused material injury to the Community industry.

(21) On the other hand, if a review is initiated with regard to imports from India, the situation of bed linen imports from Egypt, including the conditions for cumulation, could be examined in parallel.

(22) For the reasons above and on grounds of procedural efficiency, it is appropriate to suspend the measures on imports of bed linen originating in Egypt, while providing all interested parties concerned with an opportunity to submit information/observations, and, if appropriate, to request a review.

(23) The Pakistani and Egyptian authorities, the Pakistani and Egyptian exporting producers and their associations, all interested parties in the Community, in particular the Community industry, importers, users, traders and, where relevant, their associations, received disclosure of the proposed course of action and were given an opportunity to comment and to be heard. The oral and written comments submitted by these parties were considered but have not altered the conclusions reached in this Regulation.

(24) Any requests for a review and any observation/submission of information concerning the measures concerning imports of bed linen from Egypt must be made in writing and be submitted to the following address:

European Commission
Directorate-General for Trade
Directorate B and C
TERV 0/13
Rue de la Loi/Wetstraat 200
B-1049 Brussels
Fax (32-2) 295 65 05
Telex COMEUR B 21877.

(25) On the grounds of procedural efficiency, if no notice is published before 28 February 2002 in the *Official Journal of the European Communities*, indicating that an interested party has requested a review, the anti-dumping measures should automatically expire with regard to imports originating in Egypt. If such a notice is published before the aforementioned date, the suspension should continue until 15 April 2002, upon which date the measures should expire unless a review investigation is initiated before that date. If such a review is initiated, the measures should remain suspended during the review investigation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The application of anti-dumping duties as specified in Article 1 of Regulation (EC) No 2398/97 is hereby suspended with regard to imports of cotton-type bed linen originating in Egypt.

2. The anti-dumping duty specified in Article 1 of Regulation (EC) No 2398/97 with respect to Egypt shall expire on 28 February 2002 unless a notice has been published in the *Official Journal of the European Communities* before that date, indicating that a request for a review has been received by the Commission. If such a request is published, the anti-dumping duty specified in Article 1 of Regulation (EC) No 2398/97 with respect to Egypt shall remain suspended but shall expire on 15 April 2002 unless a review has been initiated before that date. During such a review, if any, the application of the anti-dumping duty with respect to imports originating in Egypt shall remain suspended pursuant to paragraph 1.

3. Any request for a review by interested parties must be in writing and must reach the Commission at the following address no later than 14 February 2002:

European Commission
Directorate-General for Trade
Directorate B and C
TERV 0/13
Rue de la Loi/Wetstraat 200
B-1049 Brussels
Fax (32-2) 295 65 05
Telex COMEUR B 21877.

Article 2

The anti-dumping proceeding concerning imports of cotton-type bed linen originating in Pakistan is hereby terminated.

Article 3

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 January 2002.

For the Council
The President
J. PIQUÉ I CAMPS